IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4553 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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POLABHAI KALABHAI

Versus

STATE OF GUJARAT

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Appearance:

MR PM THAKKAR for Petitioner

MR.V.M. PANCHOLI A.P.P. for Respondent No. 1

NOTICE SERVED for Respondent No. 2

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CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 02/03/2001

ORAL JUDGEMENT

1. This is a petition under Section 482 of the Criminal Procedure Code for quashing the complaint. The

complaint in question was filed by respondent No.2 in the Court of Judicial Magistrate, First Class, Anand on 25.6.1991 against 3 persons including the petitioner. It was alleged that they had committed offence punishable under Sections 406, 420 read with Section 114 of the Indian Penal Code. The learned Magistrate ordered the complaint to be sent to the Police for investigation under Section 156 (3) of the Criminal Procedure Code. The petitioner who was arrayed as accused No.3 in the complaint filed this petition for quashing the complaint against him.

2. The respondent No.2 who is the original complainant has not entered appearance though served.

3. It appears from the averments made in the complaint on 12.8.1988 that a tractor was agreed to be sold by the complainant to accused No.1 and 2 for Rs.51,000/- and possession of the tractor alongwith trolley and cultivator was handed over to them. It appears that the complaint has been filed because of the failure of the accused No.1 and 2 to pay the full amount and give back possession of the trolley and cultivator which according to the complainant was not sold. The only averment with regard to the petitioner is that accused No.1 and 2 had sold the tractor to the accused No.3. The complaint does not disclose that the petitioner has committed any offence as alleged. In the circumstances the complaint is quashed so far the petitioner is concerned. Rule made absolute accordingly.

(M.C. Patel, J).

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